

List of Attachments for Public Hearing No. 01

– Urgency Ordinance No. 240.3 – Water Use Restriction

Attachments:

- 1-A Resolution Approving Citywide Water Conservation Plan
- 1-B Urgency Ordinance No. 240.3 – Supplemental Water Use Restriction
- 1-C CIP 7126 – Water Conservation Program Sheet
- 1-D Memorandum – Water Rationing Program Comparison
- 1-E State Water Resources Control Board - Resolution 2015-0013
- 1-F State Water Resources Control Board - Resolution 2015-0032
- 1-G 2 Letters: Summitpointe Golf Club and Spring Valley Golf Course
- 1-H Budget Change Form (BCF)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
A WATER CONSERVATION PLAN DUE TO STATE WATER SHORTAGE, APPROVING A
BUDGET APPROPRIATION TO IMPLEMENT THE WATER CONSERVATION PLAN, AND
DENYING REQUESTS FOR WATER SERVICES TO HILLSIDE GOLF COURSES**

WHEREAS, on June 7, 2011, the City Council adopted Resolution No. 8093, “A Resolution Adopting The 2010 Urban Water Management Plan and Establishing the 2020 Per Capita Daily Water Use Target” (the “UWMP”); and

WHEREAS, on January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions; and

WHEREAS, on January 28, 2014, the Santa Clara Valley Water District, one of the City’s water suppliers, declared a water supply shortage and requested ten percent (10%) conservation; and

WHEREAS, on January 31, 2014, the San Francisco Public Utilities Commission, one of the City’s water suppliers, declared a water supply shortage and requested ten percent (10%) voluntary conservation; and

WHEREAS, on February 25, 2014, the Santa Clara Valley Water District requested mandatory twenty percent (20%) conservation due to the continued drought conditions in the State of California; and

WHEREAS, on April 25, 2014, the Governor suspended the application of the California Environmental Quality Act’s applicability to the State Water Resource Control Board’s adoption of emergency regulations pursuant to Water Code Section 1058.5; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0038 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement their Water Shortage Contingency Plans; and

WHEREAS, on July 22, 2014, the Santa Clara Valley Water District approved funding additional staffing to augment community outreach regarding water conservation tips; and

WHEREAS, on August 19, 2014, the Milpitas City Council adopted an Urgency Ordinance No. 240.2 declaring a water shortage, adding supplemental water use restrictions to Water Shortage Contingency Plan as required by State law, and requested the community to implement water conservation measures with a goal of reducing consumption by twenty percent (20%); and

WHEREAS, on March 17, 2015, the State Water Resources Control Board adopted Resolution No. 2015-0013 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plans; and

WHEREAS, on March 24, 2015, the Santa Clara Valley Water District (one of the City of Milpitas water suppliers) requested mandatory thirty percent (30%) conservation reflecting its supply conditions with the continued drought conditions in the State of California; and

WHEREAS, on April 1, 2015, the Governor declared a requirement of statewide twenty-five percent (25%) mandatory reduction with enforcement regulations; and

WHEREAS, on April 15, 2015, the San Francisco Public Utilities Commission (another City of Milpitas water supplier), declared a water supply shortage and requested ten percent (10%) voluntary conservation reflecting its supply conditions; and

WHEREAS, on May 5, 2015, the State Water Resources Control Board adopted additional emergency regulations for statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plan, assigned a water conservation target to water retailers such as Milpitas, and imposing fines if retailers exceed their targets; and

WHEREAS, on May 12, 2015, the Santa Clara Valley Water District adopted a wholesale water rate structure that includes a ten percent (10%) penalty for water volume purchased above the contract amount; and

WHEREAS, on May 18, 2015, the State of California, Office of Administrative Law, readopted and further amended three sections of the State Water Resources Control Board's emergency regulations of May 5, 2015, intended to achieve the Governor Brown's call for twenty-five percent (25%) statewide potable water usage reduction; and

WHEREAS, drought conditions that formed the basis of the Governor's Emergency Proclamations continue to exist and the drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation; and

WHEREAS, the City Council of the City of Milpitas declares the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan); and

WHEREAS, the actions previously taken by City staff and the community reduced water consumption by only 9.4 % and additional conservation activities are necessary to meet State laws and reduce consumption by thirty percent (30%); and

WHEREAS, in light of the continued water supply shortage in the State of California as set forth above, the City Council approves this Water Conservation Plan as further described in this Resolution to preserve the public peace, health and safety of its residents, businesses and community; and

WHEREAS, pursuant to California Water Code, Section 375, *et seq.*, A Water Conservation Plan is proposed for implementation to achieve the required consumption reduction at an estimated cost of \$800,000.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council finds based on the above that there is a significant water shortage for Milpitas residents, business, and community and therefore takes the following water conservation measures and actions:
 - a. The Water Conservation Plan, as described on Exhibit A of this Resolution, is hereby approved.
 - b. A new Capital Improvement Project, Project No. 7126, titled “Water Conservation Program” is hereby approved to track program funding.
 - c. Budget appropriations of \$600,000 from the Water Fund and \$200,000 from the Park Fund to the new Capital Improvement Project, Project No. 7126, titled “Water Conservation Program” are hereby approved.
 - d. Simultaneous with the approval of this Resolution, the City Council will consider Urgency Ordinance No. 240.3 relating to additional water conservation restrictions and penalties for water consumptions.
 - e. Due to severe statewide drought conditions and inadequate water supply for Milpitas residents, business, and community, the City Council hereby denies the request for additional water supply to the two hillside golf courses located in the City of Milpitas.

PASSED AND ADOPTED this ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A

WATER CONSERVATION PLAN

Elements	Description	Estimated annual City cost	Water saved per year (in HCF, 748 gallons = 1 HCF)	Timeline to start
1	Add two technicians to respond to water waste complaints (response is State-mandated)	\$110,000	NA	1 month
2	Computer programming for State-mandated reports and revised billing	\$100,000 utility billing \$50,000 work order reporting	NA	2 months
3	Conservation Plan staff support	\$270,000	200,000 to 800,000 (10 to 30% range depending on plan selected)	1- 3 months
4	Convert City irrigation sites adjacent to the recycled water pipeline	\$200,000 (approx 10 sites)	12,000	3-6 months
5	Outreach	\$30,000		1-2 months
6	Install 4 new recycled water fill stations	\$40,000		1-2 months
	Total	\$800,000		

PLEASE NOTE:

This copy of Ordinance No. 240.3 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

URGENCY

NUMBER: 240.3

TITLE: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SUPPLEMENTAL WATER USE RESTRICTIONS AS REQUIRED BY STATE LAW

HISTORY: This Ordinance was introduced by the City Council at its meeting of _____, 2015, upon motion by _____ and was adopted immediately as an urgency ordinance pursuant to provisions of California Government Code Sections 36934 and 36937 and Water Code Sections 350, et seq., and 375, et seq. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS:

WHEREAS, Government Code Sections 36934 and 36937 authorize a city to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety; and

WHEREAS, water is a precious resource shared by all and is needed to sustain life; and

WHEREAS, California Water Code Sections 10610 through 10657 require urban water retailers, such as the City of Milpitas, to adopt an Urban Water Management Plan and Water Shortage Contingency Plan every five (5) years; and

WHEREAS, the Milpitas City Council adopted the 2010 Urban Water Management Plan and Water Shortage Contingency Plan on June 7, 2011; and

WHEREAS, on January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions; and

WHEREAS, on January 28, 2014, the Santa Clara Valley Water District, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) conservation; and

WHEREAS, on January 31, 2014, the San Francisco Public Utilities Commission, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) voluntary conservation; and

WHEREAS, on February 25, 2014, the Santa Clara Valley Water District requested mandatory twenty percent (20%) conservation due to the continued drought conditions in the State of California; and

WHEREAS, on April 25, 2014, the Governor suspended the application of the California Environmental Quality Act's applicability to the State Water Resource Control Board's adoption of emergency regulations pursuant to Water Code Section 1058.5; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0038 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement their Water Shortage Contingency Plans; and

WHEREAS, on August 19, 2014, the Milpitas City Council adopted an Urgency Ordinance No. 240.2 declaring a water shortage and adding supplemental water use restrictions to the Municipal Code as required by State law; and

WHEREAS, on March 17, 2015, the State Water Resources Control Board adopted Resolution No. 2015-0013 adopting an emergency regulation for Statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plans; and

WHEREAS, on March 24, 2015, the Santa Clara Valley Water District (one of the City of Milpitas water suppliers) requested mandatory thirty percent (30%) conservation reflecting its supply conditions with the continued drought conditions in the State of California; and

WHEREAS, on April 1, 2015, the Governor declared a requirement of Statewide twenty-five percent (25%) mandatory reduction with enforcement regulations; and

WHEREAS, on April 15, 2015, the San Francisco Public Utilities Commission (another City of Milpitas water supplier), declared a water supply shortage and requested ten percent (10%) voluntary conservation reflecting its supply conditions; and

WHEREAS, on May 5, 2015, the State Water Resources Control Board adopted additional emergency regulations for Statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plan, assigned a water conservation target to water retailers such as Milpitas, and imposing fines if retailers exceed their targets; and

WHEREAS, on May 12, 2015, the Santa Clara Valley Water District adopted a wholesale water rate structure that includes a 10% penalty for water volume purchased above the contract amount; and

WHEREAS, drought conditions that formed the basis of the Governor's Emergency Proclamations continue to exist and the drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation; and

WHEREAS, the City Council of the City of Milpitas declares the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan) and add these additional conservation measures as required by State law; and require the community to implement water conservation measures with a goal of reducing consumption by thirty percent (30%); and

WHEREAS, in light of the continued water supply shortage in the State of California as set forth above, the City Council must take such action to be effective immediately and to do so requires an urgency ordinance to preserve the public peace, health and safety of its residents; and

WHEREAS, in accordance with Water Code Sections 350 et seq., 375 et seq., and the laws and regulations cited above, a certified copy of the full text of this Ordinance was posted in the City Clerk's Office at least five (5) days prior to the public hearing and a summary will be published in a newspaper of general circulation within fifteen (15) days of adoption of this Ordinance.

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD, BASIS FOR ACTION AND FINDINGS

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above and the findings and justifications in the supporting staff report for this Ordinance are found to be true and correct and are incorporated herein by reference and adopted as the findings of this City Council.

SECTION 2. AMENDMENT OF MUNICIPAL CODE TITLE VIII, CHAPTER 6

Section VIII-6.500 of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-6-5.00 Supplemental Water Use Restrictions

Notwithstanding Section VIII-6-3.00 or any other provision of the Municipal Code, the following uses of Potable Water are prohibited:

- 5.01 Use of Potable Water for cleaning of any hard surfaces, such as sidewalks, streets, buildings, and parking lots.
- 5.02 Use of Potable Water for construction purposes including dust control and compaction.
- 5.03 Construction of new swimming pools or ponds not currently permitted.
- 5.04 Use of Potable Water for cleaning, filling, or operating water features, such as decorative fountains.
- 5.05 Use of Potable Water for irrigation of golf courses, except greens and tees area.
- 5.06 Use of Potable Water for watering or irrigation of any plants, lawn, grass, landscaping or turf areas between hours of 8:00 ~~p.m.~~ and 8:00 ~~a.m.~~, adjusted for Daylight Saving Time, and for more than two (2) days during any seven (7) day period. The days of watering shall be:
- Address Ending in Odd Number - Monday and Thursday
- Address Ending in Even Number - Tuesday and Friday
- No address - Monday and Thursday
- Use of Potable Water for short periods during timer adjustment and repair of irrigation system are exempt from the time and day restriction set forth above. The Director of Engineering is also authorized to approve a variation of the time and day schedule restriction, provided the variation meets the required reduction above of only two (2) days in any seven (7) day period.
- 5.07 Use of Potable Water for installation of new landscape unless served by Reclaimed Water.
- 5.08 Exceptions to the prohibitions enumerated in 5.01 through 5.07 may be granted in the discretion of the City Council.

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Title VIII, Chapter 6 of the Milpitas Municipal Code is hereby amended to add new Sections 6, 7, 8 and 9 to read as follows:

VIII-6-6.00 Additional Supplemental Water Use Restrictions

Notwithstanding Section VIII-6-3.00, Section VIII-6-5.00 or any other provision of the Municipal Code, the following uses of Potable Water are prohibited:

- 6.01 The application of Potable Water to outdoor any plants, lawn, grass, landscaping or turf areas during and within forty-eight (48) hours after measurable rainfall.
- 6.02 To promote water conservation, owners and operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
- 6.03 Newly constructed homes and buildings shall be designed with drip or microspray irrigation systems, provided any new landscaping shall continue to be restricted from installation during the declared drought as set forth in Section VIII-5-5.07.
- 6.04 The application of Potable Water to street medians containing ornamental turf.
- 6.05 Hydrant flushing, except for health and safety purposes.
- 6.06 Pools and spas shall be covered when not in use to prevent evaporation.
- 6.07 The prohibitions enumerated in 6.01, 6.03, and 6.04 do not apply to any water treatment features, such as landscaping and green roofs, to meet the requirements of Municipal

Regional Stormwater National Pollutant Discharge Elimination System Permit No CAS612008, C3 Provision.

6.08 Exceptions to the prohibitions enumerated in 6.01 through 6.06 may be granted in the discretion of the City Council.

VIII-6-7.00 Drought Penalties

7.01 Residential Properties

a. The following penalties will be imposed to residential customers who fail to limit their use:

<u>Residential Water Tiers</u>	<u>FY15/16</u> <u>Rate</u>	<u>Penalties</u>
1. <u>0-10 hcf</u>	<u>\$3.62</u>	<u>No Penalty</u>
2. <u>>10 – 20 hcf</u>	<u>\$4.80</u>	<u>No Penalty</u>
3. <u>>20 – 30 hcf</u>	<u>\$6.47</u>	<u>No Penalty</u>
4. <u>> 30 hcf</u>	<u>\$7.30</u>	<u>+10 %</u>

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

7.02 Commercial, Industrial and Institutional Properties

a. Commercial, industrial, and institutional accounts shall be assigned water allotments equal to ninety percent (90%) of their usage during the same billing period in calendar year 2013. The following penalties will be imposed to commercial, industrial and institutional customers who fail to limit their use within the assigned allotment:

	<u>FY15/16</u> <u>Rate</u>	<u>Penalty</u>
<u>Commercial / Industrial / Institutional / Construction Meter</u>	<u>\$7.30</u>	<u>+10%</u>

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

7.03 Irrigation Accounts

a. Irrigation accounts shall be assigned water allotments equal to fifty percent (50%) of their usage during the same billing period in calendar year 2013. The following penalties will be imposed to irrigation customers who fail to limit their use within the assigned allotment:

	<u>FY 15/16</u>	
	<u>Rate</u>	<u>Penalty</u>
<u>Irrigation (potable)</u>	<u>\$7.30</u>	<u>+10%</u>

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FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

7.04 The Drought Penalties set forth in this Section will be imposed in addition to the customer's normal rates charged pursuant to Section VIII-1-6.13 of the Municipal Code, as may be amended.

7.05 The Director of Engineering is authorized to assign allotments for water accounts that did not exist in 2013 or had a change in land use based on review of similar types of properties and uses.

7.06 The FY 15/16 water rates are shown here for convenience only and the real values shall be as set forth in Section VIII-1-6.13 of the Municipal Code, as may be amended.

VIII-6-8.00 Non-Compliance

Any violation of this Chapter shall be subject to the penalties provision set forth in Section I-1-4.09 (Penalty Provision), Section V-500-8.00 (Administrative Citation), or any other penalty provisions in the Municipal Code or State law.

VIII-6-9.00 Applicability

The prohibitions and rationing requirements identified in this Chapter are not applicable to fountains, irrigation systems, cooling towers, and dual-plumb sites that use non-potable water such as recycled water.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with California Government Code Sections 36934 and 36937, this Ordinance is effective immediately upon adoption by the City Council as an Urgency Ordinance. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

City of Milpitas
2014-19 CAPITAL IMPROVEMENT PROGRAM

Category	Project	Estimate Level
Water	7126 Water Conservation Program	1

CONTACT: Steven Machida [3355]

PRIORITY: Health and Safety Projects

DESCRIPTION

This project provides for a Water Conservation Program including development, implementation, and management of a new City wide water rationing and conservation plan including community outreach and education. The new Program includes staff response to water waste complaints and the implementation of new State mandated water conservation programs. This project will require the conversion of City and private property irrigation facilities from potable to recycled water where they are adjacent to recycled water pipelines.

COMMENTS:

Uncommitted Balance as of 6/30/2014: \$0

ESTIMATED COST	Prior Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Design	0	80,000	0	0	0	0	80,000
Administration	0	515,000	0	0	0	0	515,000
Surveying	0	0	0	0	0	0	0
Inspection	0	25,000	0	0	0	0	25,000
Land	0	0	0	0	0	0	0
Improvements	0	180,000	0	0	0	0	180,000
Equipment	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0
Totals	0	800,000	0	0	0	0	800,000

FINANCING	Prior Year	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Water Fund	0	600,000	0	0	0	0	600,000
Park Fund	0	200,000	0	0	0	0	200,000
Totals	0	800,000	0	0	0	0	800,000

FINANCE NOTES

Project created by City Council on June 16, 2015 with Budget Appropriation

MEMORANDUM

Engineering Division



To: Honorable Mayor and City Council
Through: Tom Williams, City Manager
From: Steven Machida, P.E., Director of Engineering *SM*
Subject: Water Rationing Program Comparison

Date: June 8, 2015

1 Recommendation

Staff evaluated various rationing programs and recommends a hybrid approach: a *Tiered Program* for residential customers and a *Percent of Use Program* for all other customers. The existing residential tiered rate structure has been effective, with residential accounts achieving a reduction of 7% overall (30% in the top tier). Consumption in the higher tiers represents outdoor usage, which must be reduced. A penalty equivalent to 10% of the fourth tier unit rate would be assessed on all usage in the fourth tier in addition to the regular unit rate. Residential customers who previously adopted conservation habits are not penalized. Commercial, industrial, and institutional indoor accounts would be assigned an allotment equal to 90% of their corresponding 2013 billing period usage. Usage above the allotment would be charged both the regular unit rate and a penalty equivalent to 10% of the regular unit rate. Irrigation accounts would be assigned an allotment of 50% of their corresponding 2013 billing period usage. Usage above the allotment would be charged at both the regular unit rate and a penalty equivalent to 10% of the regular unit rate.

2 Introduction

The City of Milpitas (City) needs to adopt stricter conservation and rationing requirements to achieve mandated goals. This technical memorandum (TM) compares several existing water rationing programs in place in the Bay Area today to provide Staff and Council perspective into the different types of rationing programs and penalties.

3 Background

On May 5, 2015, the State passed a Resolution that requires all urban water users to implement conservation programs and also requires that each City (or Agency) meet a determined conservation level. However, the Resolution gives each City the flexibility to meet their conservation level in the manner that they see fit, through conservation, rationing, or a combination of both. Starting on June 1, 2015, the State requires that the City to meet a water use level that is 12% less than the 2013 baseline. The City could incur a fine of up to \$10,000 per day if the 12% conservation level is not met. Additionally, the local water agencies that provide the City with water (Santa Clara Valley

Water District (SCVWD) and San Francisco Public Utilities Commission (SFPUC)) informed the City that it must meet 30% and 10% conservation levels, respectively. In order to comply with the State Resolution and with the local water wholesaler requests, Utility Engineering Staff has proposed a conservation and rationing program that City Council will consider on June 16, 2015. Many other cities have already gone forward with rationing programs and this technical memorandum highlights some of these programs.

4 Rationing Program Comparison

There are various ways for Cities to implement conservation and rationing programs. **Conservation Programs** encourage certain customer behaviors to conserve water, such as fining someone for hosing down the sidewalk, to having hotels place signs in hotel bathrooms to encourage hotel patrons to re-use linens. Most agencies are adopting the State-mandated water use restrictions. Therefore, a side-by-side comparison of other City's water use restrictions are not included herein.

Rationing Programs require customers to reduce (or continue reductions) in potable water use, such as limiting the amount of water that a customer can use each billing period by applying a penalty to water use above a set level. The two most common types of rationing programs are *Tiered Programs* and *Percent of Use Programs*. *Tiered Programs* establish a unit cost up to a specific volume of water used with increasing costs for higher volumes of water used. Financial penalties may be applied in addition to the tiered rate. However, tiered programs do not address commercial, industrial, institutional, or irrigation users, since it is not possible to set up a tiered system for the wide variety of users that are contained in these categories. *Percent of Use Programs* establish an allotment based upon a certain percentage of each customer's 2013 use going forward. The *Percent of Use Program* requires Cities/Agencies to develop a unique water use level for each customer while the *Tiered Program* sets all residential customers at the same level. Appeal processes can be draining on City staff resources. During the last drought in the 1990s, over 1/2 of the households appealed their rationing level, which greatly increased the staff need in both the Engineering and Finance sections. The memorandum and table focus on a comparison of Rationing Programs.

Attachment A highlights current programs implemented by nine local cities and agencies. This attachment focuses on the following points:

- Has the City/Agency declared an official drought stage?
- Has the City/Agency implemented rationing? If so, what rationing method are they using?
- What penalties does the customer incur for using water above the water rationing allotment?

5 Conclusion

Below are some of the key conclusions from the review of the conservation and rationing programs of the nine Bay Area cities and agencies:

- 100% have implemented a conservation program.

- 67% have implemented a rationing program.
- Out of those who have implemented a rationing program:
 - One City has implemented a hybrid program, using a *Tiered Program* for residential customers and a *Percent of Use Program* for irrigation and large water users, similar to what Milpitas is considering.
 - Two cities/agencies have implemented a *Tiered Program*
 - Three cities/agencies have implemented a *Percent of Use Program* (based on the customer's previous use)
- For those cities/agencies with rationing in place, financial penalties vary from \$0-\$50 per unit of water (HCF).

The proposed rationing program builds from the best ideas from various Bay Area City rationing programs and creates a plan that will allow the City to meet the State and local conservation requirements.

Attachment A: Rationing Program Comparison

City	Date of latest drought ordinance	Rationing Method	Penalties for usage above allotment
Milpitas	6/16/15, proposed	Hybrid Method Tiered. Drought penalty on highest tier (above 15 HCF per month) for residential customers. Percent of Use. Commercial/Industrial/Institutional Customers must use less than 90% of their baseline 2013 water use. Irrigation Customers must use less than 50% of their baseline 203 water use.	Residential: 10% penalty on all water consumed in Tier 4 All other customers: 10% penalty on all water consumed above allotment.
Santa Cruz	4/14/2015	Hybrid Method Tiered. Drought penalty for use above 10 HCF per month. Customers with larger families can appeal to get 2 HCF per person/month. Percent of Use (irrigation and large water user accounts). Irrigation users must use less than 1/3 of their non-drought water budget.	<ul style="list-style-type: none"> • \$25 per CCF for the first 10% over the monthly allotment. • \$50 per CCF for any usage more than 10% over the monthly allotment • Can attend Water School to have first penalty waived.
ACWD	3/13/2014	Tiered. Drought surcharges on higher tiers (above 8 units per month) for residential use, and all tiers for all other customers.	Drought surcharge: Tier 1 (0-16 units)-- no surcharge Tier 2 (17-30 units)-- \$1.48 surcharge per unit Tier 3 (30+ units)--\$2.00 surcharge per unit For all non-residential customers a surcharge of \$0.46 is applied to every unit of water that they use.
SJWC	6/15/2015, proposed	Tiered. Surcharges on usage by residential and dedicated landscape customers above declared monthly allotment. (Allotment in January is 9 units while August allotment is 13 units) Extra 2 units of water per month if customer fills out appeal form and can prove more than 4 people live at household. Program for other categories of customers (commercial, industrial, etc.) may be adopted at a later date.	<ul style="list-style-type: none"> •Drought Surcharge 1 (DS1): Excess consumption over allocation up to the 2013 monthly average will be charged at \$3.56 per unit •Drought Surcharge 2 (DS2): Excess consumption over the 2013 monthly average will be charged at \$7.13per unit
Santa Clara	4/14/2015	Percent of Use. Set a 30% use reduction, with baseline of their 2013 use for all customers.	1st: Warning, citation, up to \$500 fine. 2nd: \$100 to \$1000 fine Subsequent violations: \$100 to \$1000 fine, flow restrictor, termination of service.

City	Date of latest drought ordinance	Rationing Method	Penalties for usage above allotment
Pleasanton	5/6/2015	Percent of Use. Penalties if households use more than 75% of 2013 water use for the same month. All households, businesses and government offices in the city have been designated 75 percent of the water they used in 2013.	First time offenders pay a \$50 fixed penalty, plus \$4 per each unit (748 gallons) volume penalty for all water used in a two-month billing cycle -- not just the excess water. 2nd offense: \$8/unit plus \$100 3rd offense: \$12/unit plus \$250 4th+ offense: \$16/unit plus \$500
Contra Costa Water District (CCWD)	6/3/2015	Percent of Use. Residents must reduce their use to 25% below their 2013 water use. Irrigation customers must reduce to 40% below their 2013 water use.	1st: warning 2nd: \$250 3rd: \$500 Subsequent violations: \$10 per HCF (748 gallons), suspension of service.
Mountain View	5/19/2015	None	Not applicable
Sunnyvale	5/12/2015	None	Not applicable
Gilroy	5/19/2015	None	Not applicable

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0013**

**TO ADOPT AN EMERGENCY REGULATIONS FOR
STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order (April 2014 Proclamation) to strengthen the State's ability to manage water and habitat effectively in drought conditions, and called on all Californians to redouble their efforts to conserve water. The April 2014 Proclamation finds that the continuous severe drought conditions present urgent challenges across the State, including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity, if drought conditions continue into 2015. The April 2014 Proclamation also suspends the environmental review required by the California Environmental Quality Act to allow the emergency regulation and other actions to take place as quickly as possible;
2. The April 2014 Proclamation refers to the [Governor's Proclamation No. 1-17-2014](#), issued on January 17, 2014, declaring a drought State of Emergency to exist in California due to severe drought conditions (January 2014 Proclamation). The January 2014 Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmers' long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January 2014 Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. On December 22, 2014, in light of the continued lack of rain, Governor Brown issued [Executive Order B-28-14](#), which extends the California Environmental Quality Act suspension through May 31, 2016 for Water Code section 13247 and certain activities identified in the January 2014 and April 2014 proclamations;
4. Drought conditions are continuing. As of March 3, 2015, snow water equivalents for the Northern, Central, and Southern Sierra regions were at 16 percent, 20 percent, and 21 percent of normal for that date, respectively. Additionally, most reservoirs are less than 60 percent full and January 2015 was one of the driest months ever recorded in California history. Moreover, many communities face the prospect of needing emergency drinking water supplies;
5. The likelihood that any additional precipitation will significantly reduce the severity of drought conditions this year is extremely low;
6. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";

7. On July 15, 2014, the State Water Board adopted an emergency regulation to support water conservation ([Resolution No. 2014-0038](#)), and that regulation became effective July 28, 2014 upon approval by the Office of Administrative Law (OAL);
8. The current emergency regulation will expire on April 25, 2015;
9. The current emergency regulation has supported Californians' water conservation efforts, with over 119 billion gallons saved from August 2014 through January 2015;
10. Many Californians have taken bold steps over the years and in this year to reduce water use; nevertheless, the dire nature of the current drought requires additional conservation actions from residents and businesses. Some severely-affected communities have implemented water rationing, limiting water use in some cases to only 50 gallons per person per day, foregoing showers, laundry, toilet flushing, and all outdoor watering;
11. Water conservation is the easiest, most efficient and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available later in the season or next year, giving water suppliers the flexibility to manage their systems efficiently;
12. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water;
13. Most urban water suppliers have placed restrictions on outdoor watering, but the State Water Board has nevertheless received many reports of excessive water use;
14. Education and enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
15. Public information and awareness is critical to achieving conservation goals, and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>);
16. Other parts of the world have faced social and economic hardship due to severe drought. Californians must continue to make lifestyle changes, including landscape choices that conserve even more water;
17. On March 6, 2015, the State Water Board issued public notice that it would consider the adoption of the emergency regulation at the Board's regularly-scheduled March 17, 2015 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
18. As discussed above, the State Water Board is adopting the emergency regulation because of the continuing emergency drought conditions, the need for prompt action, and the need to act before the current emergency regulation expires on April 25, 2015; and

19. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain the enforcement discretion in enforcing the regulation to the extent authorized. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board re-adopts California Code of Regulations, title 23, sections 863, 864, and 865, as appended to this resolution as an emergency regulation;
2. State Water Board staff will submit the regulation to the OAL for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes;
4. This regulation shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulation due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulation and its effect;
6. The State Water Board directs staff to condition funding upon compliance with the emergency regulation, to the extent feasible;
7. The State Water Board directs staff to work with the DWR and the Save Our Water campaign to disseminate information regarding the emergency regulations; and
8. The State Water Board directs staff to update the electronic reporting portal to include data fields for local agencies to report on compliance and enforcement activities.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board commends Californians who heeded the call for conservation and have helped to save over 119 billion gallons from August 2014 through January 2015. The State Water Board calls upon Californians to redouble their conservation efforts in the face of a fourth year of severe drought. For homeowners and businesses that have delayed removing turf, planting drought-tolerant landscapes, or installing efficient irrigation systems, the time to act is now;

10. The State Water Board calls upon water suppliers to ensure that they have adequate personnel and financial resources to implement conservation requirements not only for 2015, but also for another year of drought should it occur. Water suppliers that face budget shortfalls due to reduced sales should take immediate steps to raise necessary revenues in a way that actively promotes continued conservation. In Resolution No. 2014-0038, the State Water Board called on all urban water suppliers to evaluate their rate structures and begin to implement needed changes as part of planning for another dry year. These efforts should be continued and redoubled;
11. Disadvantaged communities may require assistance in increasing water conservation and State agencies should look for opportunities to provide assistance in promoting water conservation;
12. The State Water Board calls upon all water suppliers to take further actions to increase water conservation, such as by:
 - a. providing customers with timely and easy-to-understand information on the average
 - b. number of gallons they use each month and each day within their billing period; accelerating the completion of projects that will conserve potable water by making use of non-potable supplies, such as recycled water and stormwater collection projects; and
 - c. accelerating projects to fix leaks, and to conduct a system-wide water loss audit as soon as possible;
13. The State Water Board calls upon the restaurant and hospitality industry to take further actions to increase water conservation, such as by utilizing water efficient pre-rinse spray valves for dish washing and training staff on the new regulation so that the minimum amount of water is used to wash towels and linens; and
14. The State Water Board directs staff to develop a statewide portal for reporting water waste.

CERTIFICATION

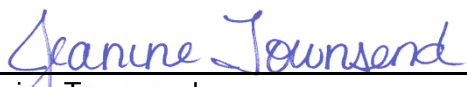
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 17, 2015.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Article 22.5. Drought Emergency Water Conservation

Sec. 863 Findings of Drought Emergency

(a) The State Water Resources Control Board finds as follows:

(1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;

(2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;

(3) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;

(4) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and

(5) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

Sec. 864 ~~Prohibited Activities~~ End-User Requirements in Promotion of Water Conservation

(a) To promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:

(1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(3) The application of potable water to driveways and sidewalks; ~~and~~

(4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system-;

(5) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall; and

(6) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.

(b) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

~~(b)(c)~~ The taking of any action prohibited in subdivision (a) or the failure to take any action required in subdivision (b) of this section, in addition to any other applicable civil or criminal penalties, is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105.

Sec. 865 Mandatory Actions by Water Suppliers

(a) The term “urban water supplier,” when used in this section, refers to a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b)(1) To promote water conservation, each urban water supplier shall implement all requirements and actions of the stage of its water shortage contingency plan that ~~imposes~~ includes mandatory restrictions on the number of days that outdoor irrigation of ornamental landscapes or turf with potable water is allowed, or shall amend its water shortage contingency plan to include mandatory restrictions on the number of days that outdoor irrigation of ornamental landscapes or turf with potable water is allowed and implement these restrictions within forty-five (45) days. Urban water suppliers with approved alternate plans as described in subdivision (b)(2) are exempted from this requirement.

~~(2) As an alternative to subdivision (b)(1) a~~ An urban water supplier may submit a request to the Executive Director for approval of an alternate plan that includes allocation-based rate structures that satisfies the requirements of chapter 3.4 (commencing with section 370) of division 1 of the Water Code, and the Executive Director may approve such an alternate plan upon determining that the rate structure, in conjunction with other measures, achieves a level of conservation that would be superior to that achieved by implementing limitations on outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week.

(c) To promote water conservation, each urban water supplier that does not have a water shortage contingency plan that restricts the number of days that outdoor irrigation of ornamental landscapes and turf with potable water is allowed, or has been notified by the Department of Water Resources that its water shortage contingency plan does not meet the requirements of Water Code section 10632 shall, within ~~thirty-fourty-five (3045)~~ days, limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week ~~or shall implement another mandatory conservation measure or measures intended to achieve a comparable reduction in water consumption by the persons it serves relative to the amount consumed in 2013.~~

(d) In furtherance of the promotion of water conservation each urban water supplier shall:

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-users exclusive control.

(2) Prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report

shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. ~~Beginning October 15, 2014,~~ The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, and the number of days that outdoor irrigation is allowed. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves. ~~In its initial monitoring report, each urban water supplier shall state the number of persons it serves.~~

(e) To promote water conservation, each distributor of a public water supply, as defined in Water Code section 350, that is not an urban water supplier shall, within ~~thirty~~ forty-five (3045) days, take one or more of the following actions:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(2) Implement another mandatory conservation measure or measures intended to achieve a ~~comparable~~ 20 percent reduction in water consumption by the persons it serves relative to the amount consumed in 2013.

Authority: Wat. Code, § 1058.5.

References: Wat. Code, §§ 102, 104, 105; 350; 10617; 10632.

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0032**

**TO ADOPT AN EMERGENCY REGULATION FOR
STATEWIDE URBAN WATER CONSERVATION**

WHEREAS:

1. On April 25, 2014, Governor Edmund G. Brown Jr. issued an executive order (April 2014 Proclamation) to strengthen the State's ability to manage water and habitat effectively in drought conditions, and called on all Californians to redouble their efforts to conserve water. The April 2014 Proclamation finds that the continuous severe drought conditions present urgent challenges across the State, including water shortages in communities and for agricultural production, increased wildfires, degraded habitat for fish and wildlife, threat of saltwater contamination, and additional water scarcity, if drought conditions continue into 2015. The April 2014 Proclamation also suspends the environmental review required by the California Environmental Quality Act to allow the emergency regulation and other actions to take place as quickly as possible;
2. The April 2014 Proclamation refers to the [Governor's Proclamation No. 1-17-2014](#), issued on January 17, 2014, declaring a drought State of Emergency to exist in California due to severe drought conditions (January 2014 Proclamation). The January 2014 Proclamation finds that dry conditions and lack of precipitation present urgent problems to drinking water supplies and cultivation of crops, which put farmers' long-term investments at risk. The conditions also threaten the survival of animals and plants that rely on California's rivers, including many species in danger of extinction. The January 2014 Proclamation also calls on all Californians to reduce their water usage by 20 percent;
3. On December 22, 2014, in light of the continued lack of rain, Governor Brown issued [Executive Order B-28-14](#), which extends the California Environmental Quality Act suspension through May 31, 2016 for Water Code section 13247 and certain activities identified in the January 2014 and April 2014 proclamations;
4. On April 1, 2015, Governor Brown issued a new Executive Order that directs the State Water Board to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems; along with other directives;
5. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: "prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter's priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports";

6. On July 15, 2014, the State Water Board adopted an emergency regulation to support water conservation ([Resolution No. 2014-0038](#)), and that regulation became effective July 28, 2014 upon approval by the Office of Administrative Law (OAL);
7. On March 17, 2015, the State Water Board amended and readopted the emergency regulation to support water conservation ([Resolution No. 2015-0013](#)), which became effective March 27, 2015 upon approval by OAL;
8. The current emergency regulation has supported Californians' water conservation efforts, with over 125 billion gallons saved from August 2014 through March 2015; however, statewide water use is only nine percent less than the same months in 2013. Achieving a 25 percent reduction in use will require even greater conservation efforts across the state. In particular, many communities must dramatically reduce their outdoor water use;
9. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes will survive while receiving a decreased amount of water;
10. Although urban water suppliers have placed restrictions on outdoor watering, the State Water Board continues to receive reports of excessive outdoor water use;
11. Water conservation is the easiest, most efficient and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved this summer is water available later in the season or next year, reducing the likelihood of even more severe water shortages should the drought continue;
12. Education and enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated;
13. Public information and awareness is critical to achieving conservation goals, and the Save Our Water campaign, run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response (<http://saveourwater.com>);
14. Many California communities are facing social and economic hardship due to this drought. The rest of us can make adjustments to our water use, including landscape choices that conserve even more water;
15. The California Constitution declares, at article X, section 2, that the water resources of the state must be put to beneficial use in a manner that is reasonable and not wasteful. Relevant to the current drought conditions, the California Supreme Court has clarified that "what may be a reasonable beneficial use, where water is present in excess of all needs, would not be a reasonable beneficial use in an area of great scarcity and great need. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time." (*Tulare Dist. v. Lindsay Strathmore Dist.* (1935) 3 Cal.2d 489, 567.) In support of water conservation, the legislature has, through Water Code section 1011, deemed reductions in water use due to conservation as equivalent

to reasonable beneficial use of that water. Accordingly, this regulation is in furtherance of article X, section 2 during this drought emergency. This temporary emergency regulation is not to be used in any future administrative or judicial proceedings as evidence or finding of waste and unreasonable use of any individual water user or water supplier subject to this regulation, and are not to affect or otherwise limit any rights to water conserved under applicable law, including without limitation, water conserved consistent with Water Code section 1011;

16. Directive two of the Governor's April 1, 2015 Executive Order directs the State Water Board to consider the relative per capita usage of each urban water supplier's service area and require that areas with high per capita use achieve proportionally greater reductions than areas with low per capita use;
17. On April 7, 2015, the State Water Board issued a draft framework proposing increasing levels of required water reduction based upon residential per capita per day use (R-GPCD) for the proposed regulation, and solicited public comments. The Board received over 300 comments on the framework, primarily relating to the levels of required water reduction;
18. On April 18, the State Water Board issued draft regulatory language for public comment based on the April 7 framework and the comments received. The draft regulatory language reflected careful consideration of all comments including those directed at the levels of required reduction. Again, the Board received close to 300 comments;
19. On April 28, 2015, the State Water Board issued a final version of draft regulatory language for comment, followed on April 29 by a formal public notice that it would consider the adoption of the emergency regulation at the Board's regularly-scheduled May 5 and 6, 2015 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations;
20. As discussed above, the State Water Board is adopting the emergency regulation because of the continuing emergency drought conditions, the need for prompt action to prevent the waste and unreasonable use of water and to promote conservation, and the specific actions called for in the Governor's April 1, 2015 Executive Order; and
21. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain the enforcement discretion in enforcing the regulation to the extent authorized. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 866 and re-adopts sections 863, 864, and 865, as appended to this resolution as an emergency regulation;

2. State Water Board staff will submit the regulation to OAL for final approval;
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or the Executive Director's designee may make such changes;
4. This regulation shall remain in effect for 270 days after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions, or unless the State Water Board renews the regulation due to continued drought conditions as described in Water Code section 1058.5;
5. The State Water Board directs staff to provide the Board with monthly updates on the implementation of the emergency regulation and its effect. These updates shall include information regarding the progress of the Building Standards Commission, Department of Housing and Community Development, and other state agencies in the adoption and implementation of emergency regulations or other requirements that implement increased outdoor irrigation efficiency for new construction. These regulations and other requirements will extend existing efficiency standards for new construction to the outdoor environment and ensure that California's new homes are constructed to meet the growing demand with the most efficient standards;
6. The State Water Board directs staff to condition funding upon compliance with the emergency regulation, to the extent feasible;
7. The State Water Board directs staff to work with DWR and the Save Our Water campaign to disseminate information regarding the emergency regulation; and
8. The State Water Board directs staff to update the electronic reporting portal to include data fields for the new reporting required by the emergency regulation.

THEREFORE BE IT FURTHER RESOLVED THAT:

9. The State Water Board shall work with DWR, the Public Utilities Commission, and other agencies to support urban water suppliers' actions to implement rates and pricing structures to incent additional conservation, as required by directive eight in the Governor's April 1, 2015 Executive Order. The Fourth District Court of Appeal's recent Decision in *Capistrano Taxpayer Association Inc. v. City of San Juan Capistrano* (G048969) does not foreclose the use of conservation-oriented rate structures;
10. The State Water Board calls upon water suppliers to:
 - a. ensure that adequate personnel and financial resources exist to implement conservation requirements not only for 2015, but also for another year of drought should it occur. Water suppliers that face budget shortfalls due to reduced sales should take immediate steps to raise necessary revenues in a way that actively promotes continued conservation;
 - b. expedite implementation of new conservation programs by minimizing internal review periods and utilizing emergency authorities, as appropriate;

- c. consider the relative water use and conservation practices of their customers and target those with higher water use to achieve proportionally greater reductions than those with low use;
 - d. minimize financial impacts to low-income customers;
 - e. preserve safe indoor water supplies in areas with very low R-GPCD and where necessary to protect public health and safety;
 - f. promote low-water use methods of preserving appropriate defensible space in fire-prone areas, consistent with local fire district requirements;
 - g. educate customers on the preservation of trees;
 - h. promote on-site reuse of water; and
 - i. promptly notify staff of the supplier's need for an alternate method of compliance pursuant to resolved paragraph 16.
11. The State Water Board calls upon all businesses within California's travel and tourism sectors to inform visitors of California's dire drought situation and actions visitors should take to conserve water;
 12. The State Water Board commends wholesale water agencies that have set aggressive conservation targets for their retail water suppliers;
 13. The State Water Board commends water suppliers that have made investments to boost drought-resistant supplies, such as advanced treated recycled water and desalination. Those investments help to make communities more resilient in the face of drought;
 14. The State Water Board commends the many water suppliers that have already surpassed their 20x2020 conservation targets. Long-term conservation efforts are critical to maintaining economic and social well-being, especially in light of the impacts of climate change on California's hydrology;
 15. During this drought emergency, heightened conservation that extends urban resilience is necessary. The State Water Board's focus is primarily on immediate reductions in outdoor water use. Some short-term conservation efforts, such as landscape conversions and installation of efficient appliances, will also support long-term conservation objectives, and are encouraged wherever possible;
 16. The State Water Board recognizes that some commercial and industrial customers, while accounting for a significant portion of total use in a service area, have already taken steps to significantly reduce their water consumption and cannot further reduce their use without substantial impacts. However, the Board also recognizes that in many areas there are significant opportunities for reductions in water use by industries and commercial enterprises that have yet to take action, especially those with large areas of non-functional turf. The Board directs staff to respond promptly upon receipt of any request for alternate enforceable methods of compliance. If the supplier believes the conservation standard is unachievable due to firm commercial and industrial water use

and residential use reductions that would affect public health and safety, it should provide any supporting information or documentation for an alternate method of compliance; and

17. Some water suppliers have called for further refinement of the tiers to reflect a range of factors that contribute to water use, including but not limited to temperature, lot size, and income. Others have called for an approach that provides greater recognition for early investments in conservation, the development of local, drought resistant water supplies, and health and safety needs. These suggestions and many others are important considerations in the development of a more comprehensive, and long term, conservation framework. The State Water Board directs staff to work with stakeholders on a thoughtful process to devise options for extended and expanded emergency regulations should the drought continue into 2016.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on May 5, 2015.

AYE: Chair Felicia Marcus
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Article 22.5. Drought Emergency Water Conservation.

Sec. 863. Findings of Drought Emergency.

(a) The State Water Resources Control Board finds as follows:

- (1) On January 17, 2014, the Governor issued a proclamation of a state of emergency under the California Emergency Services Act based on drought conditions;
- (2) On April 25, 2014, the Governor issued a proclamation of a continued state of emergency under the California Emergency Services Act based on continued drought conditions;
- (3) On April 1, 2015, the Governor issued an Executive Order that, in part, directs the State Board to impose restrictions on water suppliers to achieve a statewide 25 percent reduction in potable urban usage through February, 2016; require commercial, industrial, and institutional users to implement water efficiency measures; prohibit irrigation with potable water of ornamental turf in public street medians; and prohibit irrigation with potable water outside newly constructed homes and buildings that is not delivered by drip or microspray systems;
- (4) The drought conditions that formed the basis of the Governor's emergency proclamations continue to exist;
- (5) The present year is critically dry and has been immediately preceded by two or more consecutive below normal, dry, or critically dry years; and
- (6) The drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to prevent waste and unreasonable use of water and to further promote conservation.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, and 275, Water Code;
Light v. State Water Resources Control Board (2014) 226 Cal.App.4th 1463.

Sec. 864. End-User Requirements in Promotion of Water Conservation.

- (a) To prevent the waste and unreasonable use of water and to promote water conservation, each of the following actions is prohibited, except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency:
- (1) The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;
 - (2) The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
 - (3) The application of potable water to driveways and sidewalks; and
 - (4) The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;

(5) The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;

(6) The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased;

(7) The irrigation with potable water of ornamental turf on public street medians; and

(8) The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.

(b) To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

(c) Immediately upon this subdivision taking effect, all commercial, industrial and institutional properties that use a water supply, any portion of which is from a source other than a water supplier subject to section 865, shall either:

(1) Limit outdoor irrigation of ornamental landscapes or turf with potable water to no more than two days per week; or

(2) Reduce potable water usage supplied by sources other than a water supplier by 25 percent for the months of June 2015 through February 2016 as compared to the amount used from those sources for the same months in 2013.

(d) The taking of any action prohibited in subdivision (a) or the failure to take any action required in subdivisions (b) or (c), is an infraction, punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, and 10617, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 865. Mandatory Actions by Water Suppliers.

(a) As used in this section:

(1) “Distributor of a public water supply” has the same meaning as under section 350 of the Water Code, except it does not refer to such distributors when they are functioning solely in a wholesale capacity, but does apply to distributors when they are functioning in a retail capacity.

(2) “R-GPCD” means residential gallons per capita per day.

- (3) “Total potable water production” means all potable water that enters into a water supplier’s distribution system, excluding water placed into storage and not withdrawn for use during the reporting period, or water exported outside the supplier’s service area.
- (4) “Urban water supplier” means a supplier that meets the definition set forth in Water Code section 10617, except it does not refer to suppliers when they are functioning solely in a wholesale capacity, but does apply to suppliers when they are functioning in a retail capacity.

(b) In furtherance of the promotion of water conservation each urban water supplier shall:

(1) Provide prompt notice to a customer whenever the supplier obtains information that indicates that a leak may exist within the end-user’s exclusive control.

(2) Prepare and submit to the State Water Resources Control Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the urban water supplier produced, including water provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. The monitoring report shall specify the population served by the urban water supplier, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, and the number of days that outdoor irrigation is allowed, and monthly commercial, industrial and institutional sector use. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.

(c)(1) To prevent the waste and unreasonable use of water and to meet the requirements of the Governor’s April 1, 2015 Executive Order, each urban water supplier shall reduce its total potable water production by the percentage identified as its conservation standard in this subdivision. Each urban water supplier’s conservation standard considers its service area’s relative per capita water usage.

(2) Each urban water supplier whose source of supply does not include groundwater or water imported from outside the hydrologic region in which the water supplier is located, and that has a minimum of four years’ reserved supply available may, submit to the Executive Director for approval a request that, in lieu of the reduction that would otherwise be required under paragraphs (3) through (10), the urban water supplier shall reduce its total potable water production by 4 percent for each month as compared to the amount used in the same month in 2013. Any such request shall be accompanied by information showing that the supplier’s sources of supply do not include groundwater or water imported from outside the hydrologic region and that the supplier has a minimum of four years’ reserved supply available.

(3) Each urban water supplier whose average July-September 2014 R-GPCD was less than 65 shall reduce its total potable water production by 8 percent for each month as compared to the amount used in the same month in 2013.

(4) Each urban water supplier whose average July-September 2014 R-GPCD was 65 or more but less than 80 shall reduce its total potable water production by 12 percent for each month as compared to the amount used in the same month in 2013.

(5) Each urban water supplier whose average July-September 2014 R-GPCD was 80 or more but less than 95 shall reduce its total potable water production by 16 percent for each month as compared to the amount used in the same month in 2013.

(6) Each urban water supplier whose average July-September 2014 R-GPCD was 95 or more but less than 110 shall reduce its total potable water production by 20 percent for each month as compared to the amount used in the same month in 2013.

(7) Each urban water supplier whose average July-September 2014 R-GPCD was 110 or more but less than 130 shall reduce its total potable water production by 24 percent for each month as compared to the amount used in the same month in 2013.

(8) Each urban water supplier whose average July-September 2014 R-GPCD was 130 or more but less than 170 shall reduce its total potable water production by 28 percent for each month as compared to the amount used in the same month in 2013.

(9) Each urban water supplier whose average July-September 2014 R-GPCD was 170 or more but less than 215 shall reduce its total potable water production by 32 percent for each month as compared to the amount used in the same month in 2013.

(10) Each urban water supplier whose average July-September 2014 R-GPCD was 215 or more shall reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013.

(d)(1) Beginning June 1, 2015, each urban water supplier shall comply with the conservation standard specified in subdivision (c).

(2) Compliance with the requirements of this subdivision shall be measured monthly and assessed on a cumulative basis.

(e)(1) Each urban water supplier that provides potable water for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (b), may subtract the amount of water provided for commercial agricultural use from its potable water production total, provided that any urban water supplier that subtracts any water provided for commercial agricultural use from its total potable water production shall:

(A) Impose reductions determined locally appropriate by the urban water supplier, after considering the applicable urban water supplier conservation standard specified in subdivision (c), for commercial agricultural users meeting the definition of Government Code section 51201, subdivision (b) served by the supplier;

(B) Report its total potable water production pursuant to subdivision (b)(2) of this section, the total amount of water supplied for commercial agricultural use, and shall identify the reduction imposed on its commercial agricultural users and each recipient of potable water for commercial agricultural use;

(C) Certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (b); and

(D) Comply with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order for all commercial agricultural water served by the supplier that is subtracted from its total potable water production.

(2) Submitting any information pursuant to subdivision (e)(1)(B) or (C) of this section that is found to be materially false by the board is a violation of this regulation, punishable by civil liability of up to five hundred dollars (\$500) for each day in which the violation occurs. Every day that the error goes uncorrected constitutes a separate violation. Civil liability for the violation is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f)(1) To prevent waste and unreasonable use of water and to promote water conservation, each distributor of a public water supply that is not an urban water supplier shall take one or more of the following actions:

(A) Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or

(B) Reduce by 25 percent reduction its total potable water production relative to the amount produced in 2013.

(2) Each distributor of a public water supply that is not an urban water supplier shall submit a report by December 15, 2015, on a form provided by the Board, that either confirms compliance with subdivision (f)(1)(A) or identifies total potable water production, by month, from June through November, 2015, and total potable water production, by month, for June through November 2013.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 102, 104, 105, 275, 350, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.

Sec. 866. Additional Conservation Tools.

(a)(1) To prevent the waste and unreasonable use of water and to promote conservation, when a water supplier does not meet its conservation standard required by section 865 the Executive Director, or the Executive Director's designee, may issue conservation orders requiring additional actions by the supplier to come into compliance with its conservation standard.

(2) A decision or order issued under this article by the board or an officer or employee of the board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the California Water Code.

(b) The Executive Director, or his designee, may issue an informational order requiring water suppliers, or commercial, industrial or institutional properties that receive any portion of their supply from a source other than a water supplier subject to section 865, to submit additional information relating to water production, water use or water conservation. The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1846.

Authority: Section 1058.5, Water Code.

References: Cal. Const., Art., X § 2; Sections 100, 102, 104, 105, 174, 186, 187, 275, 350, 1051, 1122, 1123, 1825, 1846, 10617 and 10632, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463.



January 15, 2015

City of Milpitas
Attn: Steven Machida, Public Works Director/City Engineer
455 E Calaveras Blvd
Milpitas, CA 95035

RE: Request for Water Service for Summitpointe Golf Club, 1500 County Club Drive, Milpitas, California

Dear Mr. Leung:

As you may recall, American Golf Corporation, operators of Summitpointe Golf Club located at 1500 Country Club Drive in Milpitas, (the "Club"), made a request in April of 2014 to the City of Milpitas to provide a potable water source for the golf course as a backup supply when deliveries from Santa Clara Valley Water District ("District") became unavailable. We were very appreciative that the City was able to accommodate our request on a temporary basis at that time. Due to multiple extensions from the District, recent rainfall, and the Club's conservation efforts, the Club has not utilized any City water to date.

Since early last spring, the Club has been diligently working on alternative water sources and water conservation practices. As the Club nears the finish line with a well that has been installed near the maintenance compound, it has become apparent that the production from that well will only supply a fraction of the water required for the golf course, and that City water will once again become essential to the Club's survival. The Club is also currently investigating the possibility of installing of a second well.

We respectfully request that the City of Milpitas ("City") provide potable water service for irrigation at the Club.

Background on Summitpointe Golf Club:

By way of background, we want to take this opportunity to provide the City with some information about the Club. For the last 20 years, American Golf and the Club have established close ties with local communities to provide affordable and enjoyable public golf experiences for the residents of the City and nearby communities. The following is a list of examples of the Club's involvement in and contributions to the communities:

- The Club is a proponent of local talents and recruits and hires within its communities. Over 80% of the Club's workforce is made up of residents from Milpitas and nearby communities of San Jose and Fremont. Some of these coworkers have been employed with the Club since the mid-1990s.

- The Club is an advocate of giving back to the communities it serves. Over the years, the Club has raised hundreds of thousands of dollars for charities. The Club has been a huge supporter for various cancer foundations and the Jordan & Kyra Memorial Foundation, a non-profit organization which funds cutting-edge search in pediatric cancer. The Club also supports charities that are aimed at enriching and enhancing the local communities. More recently, the Club has raised funds for the Milpitas School District and the First Tee of San Jose. The Club is also the home course for the Milpitas High School golf team and the practice course for the Piedmont High School golf team.
- The Club has been committed to making golf affordable and accessible for people of all ages and backgrounds. To that end, the Club strives to promote the game of golf for females and is home to a women's league, which holds regular league events and tournaments at the Club. Additionally, the Club is home to a junior program which provides local youths an opportunity to learn and play golf in a fun and non-intimidating environment. Seniors can also take advantage of special discounted rates on fees when they play at the Club. Finally, the Club ensures the opportunities for golfers with disabilities to engage in and enjoy the game of golf at the Club by providing disabled golfers with single rider cart upon request, disability flags, and reasonable accommodations that disabled golfers may request.
- The Club also offers non-golf services to the local communities by providing meeting venues, catering services and dining facilities for local businesses and residents. The Club's restaurant is also a place where local residents and families can get away from the hustle and bustle to enjoy the scenic view and tranquil environment the Club offers.
- The Club's activities also generate significant local sales tax dollars.

Summitpointe's Water Management:

The Club is well aware of and appreciates the challenging water supply conditions presently facing water utilities across California. Responsible and proper irrigation management has been and continues to be one of the most critical components to the Club's operations. During the current drought condition, the Club is committing to be even more conscientious of its water use. The following are examples of water conservation measures the Club has already implemented:

- Update the sprinkler heads to provide more efficient water usage by allowing the Club to adjust watering from full circle to half circle perimeter and by allowing shorter runtimes on the irrigation cycles.
- Reduce irrigation in the out of play/rough areas.
- Use wetting agents wherever appropriate, and increased cultural practices.
- Regular inspection of irrigation systems for leaks and irregularities.
- Train all co-workers on water conservation efforts.
- Established a Drought Emergency Plan
- Extensive irrigation system upgrades including GPS mapping, updated programming, and create a new Toro Site Pro data base.

Moving forward, the Club will address the following water conservation methods and best management practices:

- Investigate the possibility of a second well
- Take part in the Turf Removal Rebate Program
- Continue to pursue the possibility of recycled water
- Use only low-water use plant material in non-turf areas
- Continue irrigation system upgrades with installation of isolation valves

The Club requires 200 acre-feet of water annually for its irrigation. The Club is requesting approval to access City water for irrigation as needed. The Club would only use water from the City if and at any time that the water supply from the District is suspended and only the amount required over and above our own water sources (wells). During the time the Club uses water from the City, the Club will continue to use the above-mentioned water conservation measures, as well as explore other best practices, to ensure the utmost responsible use of this precious resource. Moreover, the Club is presently exploring all viable long term options for additional backup water supplies, including but not limited to, a possible recycled water source.

The Club has made, and continues to make, significant investments in order to provide the benefits to the local communities described above. In order to maintain the community benefits and to protect its investment, the Club requests that the City provide the Club with potable irrigation supplies. In the event that the Club's deliveries from the District are unavailable, without City water supplies or another suitable source as a backup, the Club risks losing its irrigated turf and ability to operate its business, which will have an adverse impact to the services the Club offers the local communities and the coworkers who are employed by the Club.

Thank you for your consideration in this matter. Please let us know whether we can provide any additional information. We look forward to hearing from the City soon.

Sincerely,

SUMMITPOINTE GOLF CLUB

Rob Billings
General Manager

April 15, 2015

Thomas Williams, City Manager
City of Milpitas
455 East Calaveras Blvd
Milpitas, CA 95035

Subject: Request for Temporary Water

Dear Mr. Williams:

First of all I want to thank you and the distinguished Mayor and Milpitas City Council for the assistance that was provided to Spring Valley Golf Course (SVGC) last year by accommodating our temporary request for water. Our commitment to the City was to only use the 27 acre-feet allocation if absolutely necessary. Through conservation, revitalization of an old well and pond/lake storage reserves we were able to honor this commitment and did not utilize the City allocation.

Unfortunately this extended drought has settled in for another year and Spring Valley is confronted with even greater water challenges than those of 2014. Surface water diversions to Sandy Wool Lake ceased on July 10, 2014 and to survive last year's irrigation season, Ed Levin Park and Spring Valley Golf Course were forced to deplete Sandy Wool Lake storage reserves. Currently the surface water diversion from Santa Clara Valley Water District (SCVWD) remains unavailable.

Santa Clara County Parks (SCCP) and SVGC are working very closely with multiple stakeholders to identify not only short-term solutions to survive the 2015 irrigation season but also secure long-term sustainability by supporting and participating in the City of Milpitas's efforts to extend recycled water pipelines.

Attached you find our April 14, 2015 Appeal to SCVWD For Surface Water diversion. This document provides a comprehensive review of our irrigation practices, potential alternative water sources – short and long term, potential economic impacts and our current needs to survive the 2015 season. We expect to receive a ruling from the SCVWD by April 24, 2015.

In the mean time, we would like to solicit assistance from the City of Milpitas for a Request for Temporary Water once again. The details of this request are consistent with last years' and are detailed below.

- 27 acre-feet total not to exceed 100 GPM
- Diversion would not exceed 60 days and begin only when absolutely necessary and timing approved by the City of Milpitas
- Please review attached Potable Water Point of Connection Illustrative Plan and the Water main Extension Plan

The partnership that we have developed with the City of Milpitas is greatly appreciated and cannot be understated. We are confident that collective efforts to survive this current drought will result in long-term sustainability through recycled water opportunities that will benefit the City of Milpitas, the County of Santa Clara and Spring Valley Golf Course.

Respectfully,

Greg Jetter
Spring Valley Golf Course

cc: Robb Courtney
John Patterson
Aaron Baker

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:	400-2940	\$600,000	400-3999	\$600,000
<input checked="" type="checkbox"/> Budget Appropriation	320-2940	\$200,000	320-3942	\$200,000
<input type="checkbox"/> Budget Transfer	401-951-7126-15-3899	\$600,000	401-951-7126-1-4800	\$80,000
	401-951-7126-15-3840	\$200,000	401-951-7126-2-4800	\$515,000
			401-951-7126-4-4800	\$25,000
			401-951-7126-7-4800	\$180,000

1. Explain the reason for the budget change:

Background: The State of California is experiencing a severe multiple year water drought. On April 1, 2015, the Governor issued a Proclamation declaring a Continued State of Emergency due to severe drought conditions and requiring a statewide 25% reduction. The State Water Resources Control Board (SWRCB) has assigned a tentative specific conservation goal of 12% to Milpitas and adopted severe penalties for cities that fail to meet the conservation goal. Water retailers such as Milpitas, are also subject to severe penalties if they fail to perform mandated tasks, such as adopting conservation measures, responding to water waste complaints, and reporting.

The Santa Clara Valley Water District (SCVWD) is experiencing a severe water supply shortage. SCVWD Directors requested a water conservation target of 30% and implemented a penalty of 10 % for water used above contract amounts. San Francisco Public Utilities Commission (SFPUC) requested a water conservation target of 10%. Last year, the City Council called for a 20% reduction in water use and the community achieved an average reduction of 9.4% in 2014, compared to 2013. Therefore, staff recommends a public outreach goal of reducing water use by 30% to achieve our required reductions by the various agencies (SWRCB, SCVWD and SFPUC) listed above.

The SWRCB also adopted Resolution No. 2015-0013 for Emergency Regulations for Statewide Urban Water Conservation and recently developed additional regulations for conservation and enforcement of conservation. The State recognizes that outdoor water use is discretionary and must be significantly reduced. The mandates require water retailers, such as the City of Milpitas, to implement their Water Shortage Contingency Plan and submit monthly reporting. Water retailers are required to educate customers and reduce water consumption. The City's Water Shortage Contingency Plan is included in the 2010 Urban Water Management Plan and was adopted by Council on June 7, 2011. The City moved from Stage 0 to Stage 2 on August 19, 2014. At this time, Staff recommends remaining at Stage 2, which requires mandatory water conservation of 20-35%. A memo comparing conservation efforts by other cities' is included in the Council packet.

Water Conservation Program: Staff recommends implementing a Water Conservation Plan (Plan) to achieve the goal of 30% consumption reduction and maintain compliance with State law. The proposed Plan includes several activities as described in the table below.

#	Description	Estimated City cost	Water saved per year (in HCF, 748 gallons = 1 HCF)	Timeline to start
1	Add two technicians to respond to water waste complaints (response is State-mandated)	\$110,000	NA	1 month
2	Computer programming for State-mandated reports and revised billing	\$100,000 utility billing \$50,000 work order reporting	NA	2 months
3	Conservation Plan staff support	\$270,000	200,000 to 800,000 (10 to 30% range depending on plan selected)	1- 3 months

4	Convert City irrigation sites adjacent to the recycled water pipeline	\$200,000 (approx 10 sites)	12,000	3-6 months
5	Outreach	\$30,000		1-2 months
6	Install 4 new recycled water fill stations	\$40,000		1-2 months
	Total	\$800,000		

The total cost of the proposed water conservation program is estimated at \$800,000 for the first year. Staff recommends creating a new CIP Project 7125 titled Water Conservation Program to track the costs. Budget appropriations of \$600,000 from the Water Fund and \$200,000 from the Park Fund are required to provide the needed funds.

Hillside Golf Courses: Two hillside golf courses in the Milpitas foothills received water supply termination notices from SCVWD. The golf courses appealed the SCVWD decision and are receiving smaller temporary allocations, contingent upon their continuing effort to work with the City and SCVWD to implement a permanent recycled water supply. The golf courses have submitted written requests to Milpitas for temporary emergency water supply (copies are included in the Council packet). Trucking of recycled water has been presented to the golf courses as another option, and was found to be expensive and infeasible due to the needed volume of water. Groundwater well capacity in the hillside is limited and provides only a portion of the needed irrigation supply. The golf courses have implemented an efficient irrigation usage plan. A green belt in the Milpitas hillsides provides a buffer against wildfires. Unfortunately, the State's recent drought program mandates water use reduction in the City of Milpitas and fines are significant. As Milpitas must implement a program to meet the required reduction, there is insufficient water supply for the golf courses. At this time, Staff's recommendation is to deny the requests from the golf courses for temporary emergency water supply. Staff has informed the Golf Courses of the recommended denial; however staff is pursuing the extension of recycled water to the courses in conjunction with Spring Valley Summit Pointe.

Rationing Program: A rationing program is necessary to achieve a greater reduction in water consumption. Staff evaluated the various rationing programs listed in the Water Shortage Contingency Plan and recommends a hybrid approach. The existing residential rate structure has been effective, with residential accounts achieving a reduction of 7% overall (30% in the top tier). Consumption in the higher tiers represents outdoor usage, which must be reduced. A penalty equivalent to 10% of the fourth tier unit rate would be assessed on all usage in the fourth tier in addition to the regular unit rate. If the residential customer has zero usage in the fourth tier, then no penalty would be assessed. Residential customers who previously adopted conservation habits are not penalized. Commercial, industrial, and institutional indoor accounts would be assigned an allotment equal to 90% of their corresponding 2013 billing period usage. Usage equivalent to and below the allotment would be charged the regular unit rate. Usage above the allotment would be charged both the regular unit rate and a penalty equivalent to 10% of the regular unit rate. Irrigation accounts would be assigned an allotment of 40% of their corresponding 2013 billing period usage. Usage equivalent to or less than the allotment would be charged the regular unit rate. Usage above the allotment would be charged at both the regular unit rate and a penalty equivalent to 10% of the regular unit rate. Since most non-residential customers have separate irrigation accounts, this method achieves the State goal of reducing outdoor usage with minimal impact to businesses, jobs, and the overall economy. Recycled water accounts are exempt from the rationing program. The Director of Engineering would establish allotments for sites without 2013 consumption history based upon similar uses. There is no appeal process planned.

Conservation measures:

On August 19, 2014, the City Council adopted Emergency Ordinance No. 240.2 to address the requirements at that time. They included these measures:

- Eliminates use of potable water for cleaning of any hard surfaces, such as sidewalks, streets, buildings, and parking lots
- Eliminates use of potable water for construction purposes such as dust control and compaction
- Eliminates construction of new swimming pools or ponds or initial filling of any swimming pool or pond (refilling due to evaporation or repairs is acceptable)
- Eliminates use of potable water for cleaning, filling, or maintaining levels in decorative fountains
- Eliminates use of potable irrigation of golf courses except greens and tees area
- Eliminates unlimited use of potable water for irrigation and reduces irrigation to 2 days per week, between 8 am to 8 pm, adjusted for Daylight Savings
- Defers installation of new landscape unless served by recycled water

Staff reviewed the new State regulations and prepared Urgency Ordinance No. 240.3 to amend Chapter 6 of Title VIII of the Milpitas Municipal Code (Water Conservation Ordinance) to implement the following additional potable water use restrictions and/or modifications to existing restrictions:

- Prohibit the application of (potable water) to outdoor landscapes during and within 48 hours after measurable rainfall.
- To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

- Newly constructed homes and buildings must be designed with drip or microspray irrigation systems. (And no new planting shall be installed during the declared drought as stated in VIII-5-5.07 even if the project was approved prior to adoption of this ordinance).
- Prohibit the application of (potable water) to street medians containing ornamental turf.
- Eliminates hydrant flushing, except for health and safety reasons.
- Clarification of use of (potable water) for watering or irrigation of any plants, lawn, grass, landscaping or turf areas between hours of 8:00 am and 8:00 pm, adjusted for Daylight Saving hours and for no more than two (2) days during any seven (7) day period. The days of the watering shall be:

Odd address - Monday and Thursday
Even address - Tuesday and Friday
No address - Monday and Thursday

Short periods intended for timer adjustment and repair of irrigation system are exceptions to time/day restriction.

In addition, City Council authorized the City Manager or designee to approve a variation of the time/day schedule as submitted by the customers that satisfies the required declared reduction.

- Require the use of spa and pool covers (when not in use to prevent evaporation loss).
- Exceptions to the prohibitions enumerated may be granted in the discretion of the City Council.
- Non-compliance with water use restrictions of Title VIII, Chapter 6 is subject to Title I-1-14.09, Penalty Provisions and/or V-500-08, Administrative Citation.

A key revision is the requirement that irrigation shall take place during daylight hours. The purpose is to enable easy confirmation of watering on incorrect days. This requirement is being adopted by most of the water retailers in the South Bay and regional outreach will be performed.

The potable water prohibitions are not applicable to fountains and irrigation systems that use non-potable water such as recycled water landscaped areas. If recycled water is not available, potable water prohibitions are not applicable to landscape areas and green roofs that are required pollution treatment measures as defined in Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit No CAS612008, C.3 Provision.

This urgency ordinance requires a vote of 4/5 to pass and becomes effective upon adoption. A copy of the SWRCB resolution and proposed ordinance is included in the Council packet. A public hearing notice was published in the Milpitas Post.

California Environmental Quality Act: California Environmental Quality Act: The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Alternatives: Failure to adopt these additional conservation measures may result in higher water consumption by the community and/or non-compliance of the mandated conservation levels could result in the State imposing financial penalties up to \$10,000 per day on the City.

Fiscal Impact: Budget appropriations of \$600,000 and \$200,000 are required from the Water Fund and Park Fund, respectively, into the proposed CIP No. 7126 titled Water Conservation Program.

Recommendations:

1. Open the public hearing to receive comments.
2. Move to close the public hearing.
3. Adopt a Resolution to (i) Approve a Water Conservation Program, (ii) Approve a new capital improvement program project No. 7126 titled Water Conservation Program; (iii) Approve a budget appropriations of \$600,000 from the Water Fund and \$200,000 from the Park Funds, and (iv) Deny golf courses' request for temporary emergency water supply.
4. Following the City Attorney's reading of the title, move to waive the reading beyond the title of Ordinance No. 240.3.
5. Adopt by at least four-fifths vote Urgency Ordinance No. 240.3 adding Supplemental Water Use Restrictions Provisions and Penalties as Required by State law to Chapter 6 of Title VIII of the Milpitas Municipal Code to be effective immediately.

☒ Check if City Council Approval required.

Meeting Date: June 16, 2015

Requested by:	J Leung, Associate Civil Engineer	Date: June 5, 2015
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Reviewed by: <i>[Signature]</i>	Finance Director: <i>Emma Karlen</i>	Date: <i>6/9/15</i>
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		Confirmed by:

FI/24786/V

Form 30-222 (Rev. 1/92)